REMARKS

Claims 1-4, 6, 7 and 22-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kramer et al. (U.S. Patent Number 6,658,027, hereinafter "Kramer") in view of Rogers et al. (U.S. Publication Number 2001/0055276, hereinafter "Rogers"), and claims 5, 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kramer in view of Rogers and Schuster et al. (U.S. Patent Number 6,785,261, hereinafter "Schuster"). Respectfully disagreeing with these rejections, reconsideration is requested by the applicants.

Independent claim 1 recites (emphasis added), "sending an indication **to the source mobile unit** when the remaining play-out depth of the **play-out buffer in the destination mobile unit** reaches a predetermined threshold." Independent claim 6 recites (emphasis added) "adjusting the coding rate of the vocoder **in the source mobile unit** according to the **indication received from the destination mobile unit**." Independent claim 22 recites (emphasis added) "A device for controlling a rate of incoming communications comprising: a wireless transceiver having at least one output; **a play-out buffer** having a play-out depth and storing communications **received from a source mobile unit**...such that **the wireless** transceiver **will transmit** a communication that comprises **the indication message output when the play-out depth reaches a predetermined threshold**."

Regarding independent claims 1, 6 and 22, the Examiner cites portions of Kramer and Rogers as teaching the claim language quoted above that involves an indication being communicated between two wireless / mobile units. However, the applicants fail too see where in either Kramer or Rogers, as cited by the Examiner, an indication as described by the claims is sent to a source mobile unit by a destination mobile unit as in claim 1, received from a destination mobile unit and used in a source mobile unit as in claim 6, or wirelessly transmitted by the device with the play-out buffer. The applicants fail too see in either Kramer or Rogers, as cited by the Examiner, wireless communication between the source and destination devices. For example,

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Rogers is cited as teaching the indication. The Rogers abstract reads as follows (emphasis added):

> A packet network interface for delivering streaming data to an analog output is described which can compensate for a sampling rate mismatch **between the far-end transmitter and the local receiver** by monitoring the rate of reception of packets and adjusting the **local (receive) sampling rate** responsive to said rate of reception. Typically, the rate of reception of packets is monitored by monitoring the level of a jitter buffer used to compensate for variable delays in the rate of reception. If the average level is too high or two low, this is a likely indication that there is a rate mismatch **between the far end and local sampling rate. Adjustments are then made to the local sampling rate** to adjust for such a mismatch.

Thus, from the front page of Rogers, the applicants submit that the management of the jitter buffer in Rogers occurs at the local or receiver side as shown in FIG. 1.

Specifically, the Examiner cites Rogers [47] as teaching the indication of independent claims 1, 6 and 22. Rogers [47] reads as follows (emphasis added):

> [0047] We will now discuss the method steps carried out by a processor of the VoIP apparatus according to an embodiment of the invention. For example, software instructions for carrying out these steps can be executed by the microprocessor, DSP or both, depending on the implementation. FIG. 4 is a flowchart illustrating the steps carried out by an embodiment that is time based (e.g., uses DSP operating cycles) to determine how often the rate of reception of packets should be used to adjust the sampling rate. In FIG. 4, for each DSP operating interval "tick"400, the DSP determines if sufficient time has passed by evaluating whether a resolution timer has reached zero 410. If not, the DSP decreases the resolution timer 420 and waits for the next tick. If the resolution timer has reached zero, the DSP checks if the jitter buffer manager is at a level that requires adjustment to the sample rate (i.e.: the jitter buffer depth is either above the first threshold or below the second threshold). If this condition is true, then the DSP adjusts the sample rate accordingly. **As an example if the jitter buffer controller indicates that the jitter buffer level has exceeded a first threshold (e. g., ¾), the DSP will increase the sampling rate 440 of the sample rate generator. If however the jitter buffer controller indicates that the jitter buffer level is below a second threshold (e.g., ¼), the DSP decreases the sampling rate 440 of the sample rate generator.** Finally, the resolution timer is reset to an adjust rate 470 and the system waits for the next tick. Preferably the adjust rate is itself adjustable. For example, if the DSP is required to adjust the sample rate in the same direction in N consecutive periods of the adjust rate, this indicates a condition where it is preferable to increase the adjust rate to allow the adjustments to be implemented faster. N is chosen for the predicted network conditions.

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The applicants fail to see in Rogers, as cited, an indication that the jitter buffer has reached a threshold being sent to the transmit side as shown in Rogers FIG. 1. In fact, the applicants submit that the indication described in Rogers [47] involves merely the jitter buffer controller and the sample rate generator (see controller 140 and sample rate generator 165 of FIG. 1). Thus, from Rogers [47], the applicants submit that the indication described in Rogers is merely for local or receiver side use as shown in Rogers FIG. 1. Furthermore, the applicants also note that the transmit and receive sides of Rogers are not even across a wireless interface.

Again, the applicants fail too see where in either Kramer or Rogers, as cited by the Examiner, an indication as described by the claims is sent to a source mobile unit by a destination mobile unit as in claim 1, received from a destination mobile unit and used in a source mobile unit as in claim 6, or wirelessly transmitted by the device with the play-out buffer. Since none of the references cited, either independently or in combination, teaches all of the limitations of independent claims 1, 6 or 22, or therefore, all the limitations of their respective dependent claims, it is asserted that neither anticipation nor a prima facie case for obviousness has been shown. No remaining grounds for rejection or objection being given, the claims in their present form are asserted to be patentable over the prior art of record and in condition for allowance. Therefore, allowance and issuance of this case is earnestly solicited.

The Examiner is invited to contact the undersigned, if such communication would advance the prosecution of the present application. Lastly, please charge any additional fees (including extension of time fees) or credit overpayment to Deposit Account No. **502117 -- Motorola, Inc.**

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Respectfully submitted,
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